

## **REMARKS**

Reconsideration and allowance of the Application are respectfully requested.

### **Response to Arguments**

The withdrawal of the rejection of Claims 1 – 20 in response to Applicant's arguments filed December 27, 2006, is appreciatively acknowledged.

### **Claim Rejection – 35 USC 103**

The statutory basis for the new obviousness rejection is duly noted.

The rejection of Claims 1, 3 and 12 on Darey et al. and Shah; Claim 2 on Shah and Gauthier et al.; and Claim 4 on Darey et al., Shah and Grald et al., are all without legal basis and the rejections are legally flawed. These rejections all fail to provide any fact finding or basis to establish a basis for (i) motivation to make the combinations; (ii) recognition of the improved functionality; (iii) recognizing any analysis that the proposed combinations would function; and (iv) simply relies on the observation that "it would have been obvious to one skilled in the art at the time the invention was made" to modify the various patented combinations to achieve the teaching asserted by the Examiner. It is submitted that merely asserting "obviousness" without any form of substantiating and specific findings is not an adequate basis of forming a rejection.

It appears that the foregoing rejections were based upon a hindsight attempt, after viewing the Claims, to locate various components to

assemble the rejection in a piecemeal fashion to arguably meet the Claim structures. Such hindsight analysis is improper. It is the duty of the Examiner to establish a basis in factual finding applicable to the time of the invention to make findings that will support a rejection based upon obviousness. A mere assertion of obviousness is inadequate.

Despite the foregoing insufficiencies, further expense and protraction of prosecution have been determined to be unacceptable to Applicant.

### **Allowable Subject Matter**

The indicated allowability of Claims 5 – 11 and 13 – 20 if rewritten in independent form to include the limitations of the applicable base Claim and intervening Claim(s) is appreciatively acknowledged.

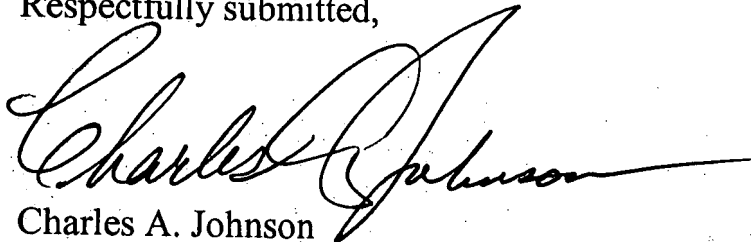
Claim 1 has been rewritten to include the limitation of dependent Claim 2, and Claim 2 has been cancelled; Claim 3 has been written in independent form to include the limitations of Claim 1 from which it originally depended and to include the limitations of dependent Claim 4, and Claim 4 has been cancelled; and Claim 13 has been amended to include the provisions of Claim 12, and Claim 12 has been cancelled.

### **CONCLUSION**

Claims 1, 3, 5 – 11, and 13 - 20 remain in the Application, and have been amended in a manner specified by the Examiner to address inclusion of limitations from associated base Claims. Claims 1, 3, 5 – 11, and 13 - 20 are allowable as presently presented and an early notice to that effect is respectfully requested.

Should the Examiner deem it appropriate or expedient to discuss anything further regarding the subject application, the Examiner is invited to contact Applicant's representative by telephone as indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles A. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles A. Johnson  
Attorney for Applicant  
Registration Number 20,852  
1448 90<sup>th</sup> Avenue  
Amery, Wisconsin 54001  
(651) 635-7702

CAJ